

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTOPHER M. CHRISTY,

Petitioner,

v.

Civil No. 05-CV-74560-DT
HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

BLAINE LAFLER,

Respondent,

/

OPINION AND ORDER DENYING THE MOTION FOR REHEARING

On December 19, 2005, this Court summarily dismissed petitioner's application for writ of habeas corpus brought pursuant to 28 U.S.C. § 2254, because it was duplicative of a habeas petition pending before Judge Robert H. Cleland. *See Christy v. Lafler*, U.S.D.C. 05-CV-74390-DT. Petitioner has now filed a motion for rehearing, which is construed as a motion for reconsideration. For the reasons stated below, the motion for rehearing is DENIED.

U.S. Dist.Ct. Rules, E.D. Mich. 7.1 (h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *See Czajkowski v. Tindall & Associates, P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). A party moving for reconsideration bears a heavy burden. *See Wrench LLC v. Taco Bell Corp.*, 36 F. Supp. 2d 787, 789 (W.D. Mich. 1998). The movant shall not only demonstrate a palpable defect by which the Court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof. A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. *See Witzke v. Hiller*, 972 F. Supp. 426, 427 (E.D. Mich. 1997).

In the present case, petitioner does not deny that he filed a petition for writ of habeas corpus on November 17, 2005, which is currently pending before Judge Cleland. Petitioner, instead, claims that he never filed the second or duplicative petition which came before this Court. Petitioner is also concerned that this Court's dismissal of his duplicative habeas petition will somehow affect the proceedings before Judge Cleland.

As Petitioner himself acknowledges, an Order Requiring Responsive Pleadings was issued in the habeas proceeding before Judge Cleland on November 30, 2005. This Court further notes that the respondent has now filed an appearance in the habeas proceeding pending before Judge Cleland. The Court is unable to determine how petitioner's habeas application was filed a second time before this Court. However, the dismissal of petitioner's second habeas petition as being duplicative will have no affect on the habeas proceedings currently pending before Judge Cleland. Accordingly, a rehearing in the matter is unnecessary.

ORDER

Based upon the foregoing, IT IS ORDERED that the motion for rehearing is **DENIED**.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: February 16, 2006

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on February 16, 2006.

s/Marie E. Verlinde

Case Manager

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